

STATE PERSONNEL BOARD CALENDAR



FEBRUARY 8-9, 2005

LOS ANGELES, CALIFORNIA

State of California

Memorandum

DATE: January 28, 2005

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD - Appeals Division

SUBJECT: Notice and Agenda for the **February 8-9, 2005**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on February 8-9, 2005, the State Personnel Board will hold its regularly scheduled meeting. However, this meeting will be at a different location on each day. On February 8, 2005, the meeting will be held in the Multi-purpose Room of Cal-Trans located at 100 South Main Street, Los Angeles, CA 90012. On February 9, 2005, the meeting will be held in the Auditorium of the Ronald Reagan State Building located at 300 South Spring Street, Los Angeles, CA 90013.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the February 8-9, 2005, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, CA 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

S. RODRIGUEZ
Secretariat's Office

Attachment

CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Locations

DAY ONE - FEBRUARY 8, 2005

Cal-Trans - Multipurpose Room
100 South Main Street
Los Angeles, California

DAY TWO - FEBRUARY 9, 2005

Ronald Reagan State Building - Auditorium
300 South Spring Street
Los Angeles, California

TWO-DAY FULL BOARD MEETING - FEBRUARY 8-9, 2005

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

TWO-DAY FULL BOARD MEETING AGENDA²

DAY ONE - FEBRUARY 8, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. - 10:45 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**
- 3. REPORT OF THE CHIEF COUNSEL - Elise Rose**
- 4. NEW BUSINESS**
- 5. REPORT ON LEGISLATION - Sherry Hicks**

AB 38 - AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal year 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.

AB 124 - AB 124 would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in *Connerly v. State Personnel Board*, and retitle Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would clarify and strengthen equal employment opportunity requirements.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:45 a.m. - 11:00 a.m.)

- 6. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

² The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA, Sacramento Superior Court No. 04CS00049.

7. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the Legislature. [Government Code section 18653.]

8. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(11:00 a.m. - 11:30 a.m.)

9. CALIFORNIA HIGHWAY PATROL - Classification Item

Proposal to designate the California Highway Patrol's Automotive Technician II classification as "sensitive" for the purpose of pre-employment drug testing and revise the minimum qualifications to include a pre-employment drug testing requirement.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(11:30 a.m. - 12:00 p.m.)

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

(12:00 p.m. - 1:00 p.m.)

LUNCH

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(1:00 p.m. - 2:00 p.m.)

11. SECRETARY OF STATE DELEGATION

Proposal to rescind delegated examination and open temporary appointment (TAU) authority from the Secretary of State's office and to require SPB review and oversight of all examinations and open TAU appointments for a 2-year period.

(2:00 p.m. - 2:45 p.m.)

12. LIMITED EXAM AND APPOINTMENT PROGRAM (LEAP)

Discussion of the current state of the program as impacted by position cuts, including efforts to put forth a Budget Change Proposal (BCP) to make LEAP fully functional. Time permitting, review of the video "The Ten Commandments of Communicating with People with Disabilities" (as referenced during the January 11th Informational Hearing regarding employment of persons with disabilities) will immediately follow the presentation.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(2:45 p.m. - 3:15 p.m.)

13. LOS ANGELES OFFICE

Discussion of the feasibility of establishing an SPB presence in Los Angeles. SPB staff to present alternatives to increase outreach into Southern California thereby facilitating public access to state employment opportunities and proactively responding to the state's future workforce needs.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(3:15 p.m. - 3:30 p.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(3:30 p.m. - onwards)

A D J O U R N M E N T

TWO-DAY FULL BOARD MEETING AGENDA³

DAY TWO - FEBRUARY 9, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(8:25 a.m. - 8:30 a.m.)

1. ROLL CALL

(8:30 a.m. - 9:00 a.m.)

2. ORAL ARGUMENT

Oral argument in the matter of **JENNIFER CADY**, CASE NO. 03-3390EA. Appeal from denial of request for reasonable accommodation. Deputy Attorney General IV. Department of Justice.

(9:00 a.m. - 9:30 a.m.)

3. ORAL ARGUMENT

Oral argument in the matter of **SHARON COHEN**, CASE NO. 03-3389EA. Appeal from denial of request for reasonable accommodation. Deputy Attorney General IV. Department of Justice.

(9:30 a.m. - 10:00 a.m.)

4. ORAL ARGUMENT

Oral argument in the matter of **NESSLIN CRUZ**, CASE NO. 03-1854A. Appeal from ten-work-days suspension. Employment Program Representative (Permanent/Intermittent). Employment Development Department.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. - 10:30 a.m.)

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:30 a.m. - 11:00 a.m.)

5. ORAL ARGUMENT

Oral argument in the matter of **JOE W. JORDAN**, CASE NO. 03-3389EA. Appeal from dismissal. Youth Correctional Counselor. Department of Youth Authority.

(11:00 a.m. - 11:30 a.m.)

6. ORAL ARGUMENT

Oral argument in the matter of **SAMUEL SWEENEY**, CASE NO. 04-0794. Appeal from 20-calendar-days suspension. Correctional Officer. California Institution for Men - Chico. Department of Corrections.

(11:30 a.m. - 12:00 p.m.)

7. ORAL ARGUMENT

Oral argument in the matter of **JOHN A. CRUZ**, CASE NO. 04-1376. Appeal from 60-calendar-days suspension. Automotive Equipment Operator I. California Department of Veterans Affairs.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(12:00 p.m. - 12:15 p.m.)

8. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, & OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES

9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(12:15 p.m. - onwards)

10. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF FEBRUARY 23, 2005, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS

11. ACTION ON SUBMITTED ITEMS

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

(See Agenda - Page 18)

12. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

DANNY BOYD, CASE NO. 03-1537PA

Appeal from dismissal
Youth Correctional Officer
Department of Youth Authority

DOREATHA FLEMING, CASE NO. 03-2274A

Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles

JOHN FLORES, CASE NO. 03-2588EA

Appeal of retaliation
Hospital Peace Officer I
Department of Mental Health

HAJI JAMEEL, CASE NO. 04-0330A

Appeal from dismissal
Supervising Transportation Engineer
California Public Utilities Commission

EDWARD LIMON, CASE NO. 04-0233A

Appeal from dismissal
Parole Agent I
Department of the Youth Authority

VIRGINIA PARKER, CASE NO. 03-0325A

Appeal from demotion
Correctional Lieutenant
Ironwood State Prison - Blythe
Department of Corrections

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable accommodation
Correctional Sergeant
Central California Women's Facility - Chowchilla
Department of Corrections

B. CASES PENDING

Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

JENNIFER CADY, CASE NO. 03-3390EA

Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice

SHARON COHEN, CASE NO. 03-3389EA

Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice

JOHN A. CRUZ, CASE NO. 04-1376A

Appeal from 60-calendar-days suspension
Automotive Equipment Operator I
California Department of Veterans Affairs

NESSLIN CRUZ, CASE NO. 03-1854A

Appeal from ten-work-days suspension
Employment Program Representative (Permanent/Intermittent)
Employment Development Department

JOE W. JORDAN, CASE NO. 04-0393A

Appeal from dismissal
Youth Correctional Counselor
Department of Youth Authority

SAMUEL SWEENEY, CASE NO. 04-0794A

Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men - Chico
Department of Corrections

C. CHIEF COUNSEL RESOLUTIONS

Court Remands

These cases have been remanded to the Board by the court for further Board action.

None

Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

PHILLIP BROWN, CASE NO. 03-3341

Seeking approval of settlement agreement in the position of Janitor with the Employment Development Department.

MICHAEL GARABEDIAN, CASE NO. 04-1394

Seeking approval of settlement agreement in the position of Staff Counsel with the Department of Conservation.

CORLENE GOI, CASE NO. 05-0019

Seeking retroactive promotion from the position of Education Programs Assistant to the position of Education Programs Consultant with the California Department of Education and approval of stipulated settlement.

TIMOTHY DWIGHT GOSE, CASE NO. 04-1120

Seeking approval of settlement agreement in the position of Fire Apparatus Engineer with the Department of Forestry and Fire Protection.

XIAOMEI MA, CASE NO. 03-2251

Seeking retroactive promotion from the position of Associated Industrial Hygienist to Senior Industrial Hygienist with the Department of Toxic Substances Control and settlement of merit issue complaint.

Others

ELIA LUTTRELL, CASE NO. 03-0635E

Seeking issuance of an order to show cause in the position of Transportation Engineering Technician with the Department of Transportation.

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

REGINALD BOHANAN, CASE NO. 03-2779

Appeal from five-work-days suspension
Senior Inspector of automotive equipment
Department of Highway Patrol

ANGELA CERVANTES, CASE NO. 04-2599E

Appeal from denial of discrimination complaint Office Assistant (Typing)
California Institution for Men - Chino
Department of Corrections

EMMANUEL DADZIE, CASE NO. 04-1399

Appeal from dismissal
Counselor, School for the Deaf
Department of Education

HAPTNESH EZRA, CASE NO. 04-1357E

Appeal for whistleblower/retaliation
Nurse Evaluator III
Department of Health Services

FARSHID FOTOOHI, CASE NO. 04-0983

Appeal from rejection during probation
Registered Nurse
California Institution for Women - Corona Department of Corrections

ALFRED GALICIA, CASE NO. 04-2261

Appeal from 30-calendar-days suspension
Workers' Compensation Insurance Representative, Range C
State Compensation Insurance Fund

MINA M. MINA, CASE NO. 04-1858

Appeal from rejection during probation
Workers' Compensation Insurance Representative
State Compensation Insurance Fund

DEBRA POPE, CASE NO. 03-3722

Appeal from rejection during probationary period
Program Technician
State Compensation Insurance Fund

ROBERT RIPANI, CASE NO. 04-2117

Appeal from a five-percent reduction in salary for three qualifying pay periods
Business Taxes Compliance Supervisor II
Board of Equalization

DARYL STONE, CASE NO. 04-0279

Appeal from dismissal
Police Officer I
Department of Developmental Services

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

None

Proposed Decisions After Board Remand

RUPERTO HERNANDEZ, CASE NO. 04-0914R

Appeal from ten-percent reduction in salary for ten months
Disability Insurance Program Representative (Permanent)
Employment Development Department

Proposed Decisions After SPB Arbitration

None

E. PETITIONS FOR REHEARING

ALJ Proposed Decisions Adopted By The Board

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

PATRICK BARBER, CASE NO. 04-0174

Appeal from dismissal

Youth Correctional Counselor

Department of Youth Authority

Petition for rehearing filed by respondent to be granted or denied.

EDWARD V. DEL RIO, CASE NO. 04-1189

Appeal From 45-workdays suspension

Caltrans Equipment Operator II

Department of Transportation

Petition for rehearing filed by respondent to be granted or denied.

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

JACOB ARIS, CASE NO. 04-1378E

AND

NICHOLAS RUTHART, CASE NO. 04-1409E

Appeal of discrimination complaint

Employment Program Representatives

Employment Development Department

DAVID BARTON, SPB CASE NO. 04-1434

Appeal from dismissal

Associate Hazardous Materials Specialist

Wasco State Prison - Wasco

Department of Corrections

JENNIFER CADY, CASE NO. 03-3390EA

Appeal from denial of request for reasonable accommodation

Deputy Attorney General IV

Department of Justice

SHARON COHEN, CASE NO. 03-3389EA

Appeal from denial of request for reasonable accommodation

Deputy Attorney General IV

Department of Justice

JOHN A. CRUZ, CASE NO. 04-1376A

Appeal from 60-calendar-days suspension
Automotive Equipment Operator I
California Department of Veterans Affairs

NESSLIN CRUZ, CASE NO. 03-1854A

Appeal from ten-work-days suspension
Employment Program Representative (Permanent/Intermittent)
Employment Development Department

DON DOWLING, CASE NO. 04-1482A

AND

ROGER HANSON, CASE NO. 04-1523A

Appeals from dismissal
Police Officers I
Department of Developmental Services

ERNEST J. DURAN, CASE NO. 04-0853

Appeal from demotion
Special Agent in Charge
Department of Justice

JOE W. JORDAN, CASE NO. 04-0393A

Appeal from dismissal
Youth Correctional Counselor
Department of Youth Authority

CHAD LOOK, CASE NO. 04-1789

Appeal from 60-work-days suspension
Correctional Officer
Wasco State Prison - Wasco
Department of Corrections

MICHAEL MCGUIRE, CASE NO. 04-0490

Appeal from demotion
Program Director
Department of Developmental Services

KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation and from constructive
medical termination
Office Technician (General)
Department of Fish and Game

SAMUEL SWEENEY, CASE NO. 04-0794A

Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men – Chico
Department of Corrections

ANTHONY VEGAS, Case No. 03-2204A

Appeal from dismissal
Parole Agent I (Adult Parole)
Department of Corrections - Stockton

13. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION

(See Agenda - Pages 19 & 20)

14. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

None

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

None

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

None

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

None

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

PETITIONS FOR REHEARING CASES

None

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

None

15. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be

entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

The California Department of Corrections proposes revisions to the Minimum Qualifications of the Nursing Consultant, Program Review classification.

17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation

Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board

Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY
UNDER CONSIDERATION**

None

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS**

None

18. WRITTEN STAFF REPORT FOR BOARD INFORMATION

19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

A D J O U R N M E N T

SUBMITTED

TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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